



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 221201-0259]

RIN 0648-BL62

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagics Resources in the Gulf of Mexico and Atlantic Region; Framework Amendment 11

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement management measures described in Framework Amendment 11 to the Fishery Management Plan (FMP) for the Coastal Migratory Pelagic (CMP) Resources of the Gulf of Mexico and Atlantic Region (CMP FMP), as prepared and submitted by the Gulf of Mexico Fishery Management Council (Gulf Council). This final rule and Framework Amendment 11 revise the Gulf of Mexico (Gulf) migratory group of king mackerel (Gulf king mackerel) catch limits. The purpose of this final rule and Framework Amendment 11 is to update catch limits to be consistent with the best scientific information available.

DATES: This final rule is effective *[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

ADDRESSES: Electronic copies of Framework Amendment 11,

which includes a regulatory impact review, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/framework-11-management-gulf-king-mackerel>.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, telephone: 727-824-5305, or email: Kelli.ODonnell@noaa.gov.

SUPPLEMENTARY INFORMATION: Gulf king mackerel is managed under the CMP FMP prepared by the Gulf and South Atlantic Fishery Management Councils (Councils) and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On October 7, 2022, NMFS published a proposed rule for Framework Amendment 11 and requested public comment (87 FR 60975, October 7, 2022). The proposed rule and Framework Amendment 11 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Framework 11 and implemented by this final rule is provided below.

All weights in this proposed rule are in round and eviscerated weight combined, unless otherwise specified.

Background

Under the CMP FMP, the Gulf Council manages fishing for Gulf king mackerel in Federal waters from Texas to the boundary between Monroe and Miami-Dade Counties in Florida. The Gulf king mackerel stock annual catch limit (ACL) is

allocated between the commercial and recreational sectors.

The current overfishing limit (OFL) and acceptable biological catch (ABC) are 8,950,000 lb (4,059,652 kg) and 8,550,000 lb (3,878,215 kg), respectively. The current stock ACL is equal to the ABC. The OFL, ABC, and stock ACL were established in 2017 in Amendment 26 to the CMP FMP (82 FR 17387; April 11, 2017). These catch limits are based on projections from the Southeast Data Assessment and Review (SEDAR) 38 stock assessment and recommendations by the Gulf Council's Scientific and Statistical Committee (SSC). The recreational landings estimates used in SEDAR 38 included data from the Marine Recreational Information Program's (MRIP) Coastal Household Telephone Survey (CHTS). MRIP now generates recreational landings estimates using the Fishing Effort Survey (FES), and the historical time series of king mackerel recreational landings has been calibrated to be consistent with the MRIP-FES estimates. The estimates generated using MRIP-FES are generally higher than those produced using CHTS because the new survey is designed to more accurately measure fishing activity.

In 2020, NMFS completed an update to SEDAR 38 (SEDAR 38 Update) that included calibrated MRIP-FES recreational landings. The update indicated that Gulf group king mackerel was not overfished or undergoing overfishing, but recruitment had been low in recent years. In September 2020, the Gulf Council's SSC reviewed the SEDAR 38 Update and

recommended new OFLs and ABCs for Gulf group king mackerel that would address reduced recruitment and allow harvest to increase over time. The SSC's recommendation for the revised OFL is 11,050,000 lb (5,012,196 kg) for 2022, and 11,180,000 lb (5,071,163 kg) for 2023 and subsequent years. The SSC's recommendation for ABC is 9,720,000 lb (4,408,918 kg) for 2022, and 9,990,000 lb (4,531,388 kg) for 2023 and subsequent years. These OFL and ABC recommendations represent a reduction in the allowable harvest when compared to the current OFL and ABC. Had MRIP-FES data been available when SEDAR 38 was completed in 2014, the current OFL would have been 11,960,000 lb (5,424,965 kg) and the current ABC would have been 11,540,000 (5,234,456 kg). The Gulf Council and NMFS developed Framework Amendment 11 to update catch levels based on the results of the SEDAR 38 Update and Gulf Council's SSC recommendations.

The Gulf Council manages Gulf king mackerel with sector allocations and zone allocations for the commercial sector. In Amendment 1 to the FMP, the Councils allocated the total Gulf king mackerel ACL to 32 percent to the commercial sector and 68 percent to the recreational sector based on the average of available commercial and recreational landings data from 1975-1979 (50 FR 34840; August 25, 1985). In Amendment 26 to the FMP, the Councils revised the allocation of the Gulf king mackerel total commercial ACL between the commercial Gulf zones: western

zone (40 percent), northern (18 percent), southern zone hook-and-line (21 percent) and southern zone gillnet (21 percent) (82 FR 17387; April 11, 2017).

The fishing year for commercial harvest varies by zone: July through June for the southern and western zones, and October through September for the northern zone. For the purpose of comparing landings to the total ACL, recreational landings are monitored based on the commercial fishing year of July through June. Therefore, the sector ACLs and commercial quotas reflect that these fishing years occur in two calendar years, as noted below.

Management Measures Contained in this Final Rule

For Gulf king mackerel, this final rule revises sector ACLs and the commercial zone quotas.

ACLs and quotas

The current total ACL for Gulf king mackerel is equal to the ABC of 8,550,000 lb (3,878,215 kg). This rule modifies the total ACL for Gulf king mackerel to 9,720,000 lb (4,408,918 kg) for 2022 and 9,990,000 lb (4,531,388 kg) for 2023 and subsequent years, which is also equal to the ABCs recommended by the Gulf Council's SSC. The 2022 total ACL is used to set the sector and zone catch limits for the 2022-2023 fishing year and the 2023 total ACL will be used to set the sector and zone catch limits for 2023-2024 and subsequent fishing years. As noted previously, the revised ACLs actually represent a decrease in the allowable harvest

of Gulf king mackerel because had the current total ACL been derived from an assessment using MRIP-FES data, the current total ACL would have been 11,540,000 lb (5,234,456 kg).

The current commercial ACL for the 2022-2023 fishing year is 2,740,000 lb (1,242,843 kg). Applying the current commercial allocation of 32 percent to the new total ACLs results in revised commercial ACLs of 3,110,400 lb (1,410,854 kg) for the 2022-2023 fishing year, and 3,196,800 lb (1,450,044 kg) for the 2023-2024 and subsequent years. The current recreational ACL for the 2022-2023 fishing year is 5,810,000 lb (2,635,372 kg). Applying the current recreational allocation of 68 percent to the new stock ACLs results in revised recreational ACLs of 6,609,600 lb (2,998,064 kg) for the 2022-2023 fishing year, and 6,793,200 lb (3,081,344 kg) for the 2023-2024 and subsequent years. Because the revised recreational ACL will now be monitored using landings estimates generated by MRIP-FES, this represents a decrease in the allowable recreational harvest. However, recreational landings, as estimated using MRIP-FES, have been well below the revised ACLs since the 2016-2017 fishing year, and NMFS does not expect the reduction in the recreational ACL to reduce recreational opportunities.

The current commercial zone quotas for the 2022-2023 fishing year are 1,096,000 lb (497,137 kg) for the western

zone, 493,200 lb (223,712 kg) for the northern zone, 575,400 lb (260,997 kg) for the southern zone hook-and-line component, and 575,400 lb (260,997 kg) for the southern zone gillnet component. The current total commercial hook-and-line ACL for the entire Gulf for the 2022-2023 fishing year is 2,164,600 lb (981,846 kg). Using the current commercial zone allocations, this final rule revises the western zone quota to 1,244,160 lb (564,341 kg) for the 2022-2023 fishing year, and 1,278,720 lb (580,017 kg) for 2023-2024 fishing year and subsequent fishing years. The northern zone quota will be 559,872 lb (253,954 kg) for the 2022-2023 fishing year and 575,424 lb (261,008 kg) for the 2023-2024 fishing year and subsequent fishing years. The southern zone hook-and-line component quota will be 653,184 lb (296,279 kg) for the 2022-2023 fishing year, and 671,328 lb (304,509 kg) for the 2023-2024 fishing year and subsequent years. The southern zone gillnet component quota will be 653,184 lb (296,279 kg) for the 2022-2023 fishing year, and 671,328 lb (304,509 kg) for the 2023-2024 fishing year and subsequent fishing years. The total commercial hook-and-line ACL (entire Gulf) will be 2,457,216 lb (1,114,574 kg) for the 2022-2023 fishing year, and 2,525,472 lb (1,145,535 kg) for the 2023-2024 fishing year and subsequent fishing years.

Management Measures in Framework Amendment 11 Not Codified through this Final Rule

OFL and ABC

As previously discussed, the current OFL and ABC for Gulf king mackerel of 8,950,000 lb (4,059,652 kg) and 8,550,000 lb (3,878,214 kg), respectively, are based on the Gulf Council's SSC's recommendations from SEDAR 38, which used recreational landings estimates from MRIP-CHTS. In Framework Amendment 11, the Gulf Council will adopt new OFLs and ABCs based on the SSC's recommendations from the results of the SEDAR 38 Update, which used MRIP-FES recreational landings estimates. The new OFLs will be 11,050,000 lb (5,012,196 kg) for 2022, and 11,180,000 lb (5,071,163 kg) for 2023 and subsequent years. The new ABCs will be 9,720,000 lb (4,408,918 kg) for 2022, and 9,990,000 lb (4,531,388 kg) for 2023 and subsequent years.

Comments and Responses

NMFS received one comment on the proposed rule for Framework Amendment 11. That comment was in support of the actions in Framework Amendment 11 and the proposed rule. There have been no changes to the proposed rule based on public comment.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with Framework Amendment 11, the CMP FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Magnuson-Stevens Act provides the legal basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule. This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995. A description of this final rule, why it is being considered, and the purposes of this final rule are contained in the preamble and in the SUMMARY section of this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 622

Annual catch limits, Fisheries, Fishing, Gulf of Mexico, King mackerel, Quotas.

Dated: December 1, 2022.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory
Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part
622 is amended as follows:

1. The authority citation for part 622 continues to
read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.384, revise paragraphs (b)(1)(i) through
(iii) to read as follows:

§ 622.384 Quotas.

* * * * *

(b) * * *

(1) * * *

(i) *Western zone.* The quota is 1,199,360 lb (544,021
kg) for the 2021-2022 fishing year, 1,244,160 lb (564,341
kg) for the 2022-2023 fishing year, and 1,278,720 lb
(580,018 kg) for the 2023-2024 fishing year and subsequent
fishing years.

(ii) *Northern zone.* The quota is 539,712 lb (244,809
kg) for the 2021-2022 fishing year, 559,872 lb (253,954 kg)

for the 2022-2023 fishing year, and 575,424 lb (261,008 kg) for the 2023-2024 fishing year and subsequent fishing years.

(iii) *Southern zone.* (A) The hook-and-line quota is 629,664 lb (285,611 kg) for the 2021-2022 fishing year, 653,184 lb (296,279 kg) for the 2022-2023 fishing year, and 671,328 lb (304,509 kg) for the 2023-2024 and subsequent fishing years.

(B) The run-around gillnet quota is 629,664 lb (285,611 kg) for the 2021-2022 fishing year, 653,184 lb (296,279 kg) for the 2022-2023 fishing year, and 671,328 lb (304,509 kg) for the 2023-2024 and subsequent fishing years.

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3. In § 622.388, revise paragraphs (a)(1)(ii) and (a)(2) to read as follows:

§ 622.388 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(a) * * *

(1) * * *

(ii) The commercial ACL for the Gulf migratory group of king mackerel is 2,998,400 lb (1,360,051 kg) for the 2021-2022 fishing year, 3,110,400 lb (1,410,854 kg) for the 2022-2023 fishing year, and 3,196,800 lb (1,450,044 kg) for the 2023-2024 and subsequent fishing years. The ACL is

further divided into a commercial ACL for vessels fishing with hook-and-line and a commercial ACL for vessels fishing with run-around gillnets. The hook-and-line ACL (which applies to the entire Gulf) is 2,368,736 lb (1,074,441 kg) for the 2021-2022 fishing year, 2,457,216 lb (1,114,574 kg) for the 2022-2023 fishing year, and 2,525,472 lb (1,145,535 kg) for the 2023-2024 and subsequent fishing years. The run-around gillnet ACL (which applies to the southern zone) is 629,664 lb (285,611 kg) for the 2021-2022 fishing year, 653,184 lb (296,279 kg) for the 2022-2023 fishing year, and 671,328 lb (304,509 kg) for the 2023-2024 and subsequent fishing years.

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(2) *Recreational sector.* If recreational landings, as estimated by the SRD, reach or are projected to reach the recreational ACL of 6,371,600 lb (2,890,109 kg) for the 2021-2022 fishing year, 6,609,600 lb (2,998,064 kg) for the 2022-2023 fishing year, and 6,793,200 lb (3,081,344 kg) for the 2023-2024 and subsequent fishing years, the AA will file a notification with the Office of the Federal Register to implement bag and possession limits for Gulf migratory group king mackerel of zero, unless the best scientific information available determines that a bag limit reduction is unnecessary.

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